The Cochin Bar Councils Act Amendment Bill

Mr. C. A. Kunjunni Raja *(Advocate-General):* Sir, I move that the Cochin Bar Councils Act Amendment Bill be taken up and finally passed.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried

The Government Land Grants Bill

Mr. K. Achyuta Menon *(Diwan Peishkar):* I move that the Government Land Grants Bill be taken up and finally passed.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried

The Cochin Tea Cultivation Restriction Act Amendment Bill

Mr. C. A. Kunjunni Raja *(Advocate-General):* I rise to move that the Cochin Tea Cultivation Restriction Act Amendment Bill be taken up and finally passed.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it

Motion put and carried

The Cochin Tenancy Act Amendment Bill*

Mr. K. Achyuta Menon *(Diwan Peishkar):* With respect to this Bill, I think the proceedings will show that an amendment was moved yesterday.

Mr. T. P. Poulose *(Kanayannur):* Sir, we need not have an elaborate discussion on the amendment. The motion that the Bill be taken up for consideration was passed yesterday. The amendment relates to clause 3.

Clause 2 put and carried

Mr. President: I can't take up an amendment of a substantial nature at this stage. If it is only a verbal amendment, that can be allowed.

Mr. T. P. Poulose *(Kanayannur):* Yesterday, the Hon'ble Member for Planters and the Hon'ble Member for Mulakunnathukavu pointed out some difficulty with regard to the word "described" used here. It was doubted whether the word described would not mean the nature of the document rather than the name. The word is not

* Appendix I

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defined as a legal term. In the dictionary, its meaning is given as "to outline by words". So I would suggest that instead of the word "described", the word "termed" may be used. The difficulty is that this is the third time that an attempt is made to give permanency of tenure to *panayam* tenants. Probably there may not be any difficulty in the Bill as it stands, but legal ingenuity may again create difficulty for the tenants. Our intention has not been completely fulfilled till now. If there is no objection, it is better to accept this suggestion.

Mr. K. P. Kannan Nayar *(Secretary to Government):* But, what is after all the difficulty with regard to the word "described"?

Mr. T. P. Poulose *(Kanayannur):* I referred to the dictionary. There, the word "described" is given to mean as "to outline by words". It is not given the meaning "named," "called," or anything of that sort. It is only in a figurative sense that we understand the term "described" to mean called. Therefore, I ask, why not a more precise word be used.

Mr. K. Achyuta Menon *(Diwan Peishkar):* May I suggest "self-styled"?

Mr. President: I think this is quite alright as it is.

Mr. K. Achyuta Menon *(Diwan Peishkar):* Our object is clear. The emphasis is not on the nature of the document.

Mr. V. J. Mathai *(Planters):* I bestowed deep consideration over this, and as one directly to be hit, I find that the words as they exist there are excellent, because that proviso is one of exclusion and not of inclusion. If it is an inclusion, the case is dfferent. The proviso is "Provided that nothing in this explanation shall apply to a document expressly described as *karipanayam*, *kaivasapanayam*, ... So, a more stringent word should be used. Therefore I think that the word "described" now used is necessary.

Mr. T. P. Poulose *(Kanayannur):* In that case I do not press the amendment. In fact it was the Member for Planters himself who pointed out the difficulty yesterday. Therefore I withdraw the amendment.

Clause 3 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Mr. K. Achyuta Menon *(Diwan Peishkar):* I move that the Bill be taken up and finally passed tomorrow.

Motion put and carried

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APPENDIX I

THE COCHIN TENANCY ACT (AMENDMENT) BILL

Preamble.—Whereas it is expedient to amend the Cochin Tenancy Act, XV of 1113, for the purposes hereinafter appearing; It is hereby enacted as follows.—

1. *Short title.*—This Act may be called the Cochin Tenancy (Amendment Act of 11 .

2. *Commencement.*—It shall come into force at once and shall also apply to all pending suits, including appeals.

3. *Amendment to section 2 (d).*—In section 2 clause (*d*)—

Number the existing Explanation as Explanation I and add as Explanation II the following.—

"*Explanation II.*—

(*i*) A transaction called "*Panayam*" in the document evidencing it and possessing the incidents mentioned in sub-clauses 1 and 2 of this clause shall, until the contrary is proved, be presumed to be a *kanam* within the meaning of this section, if it is a renewal of a previous document or if in respect of it a counter-part has been executed by the *panayam* tenant or there is a provision for renewal or for the payment of *puravaka* dues:

Provided that nothing in this Explanation shall apply to a document expressly described as *karipanayam, kaivasapanayam, kozhuverukkapanayam* or *nadappu-panayam.*

(*ii*) A provision in any document of the kind referred to in clause (*i*) providing for surrender of the holding on demand to the landlord shall not, by itself, give rise to any presumption contrary to that provided for in clause (*i*) of this Explanation."

APPENDIX II

THE COCHIN MAKKATHAYAM THIYYA BILL AS MODIFIED BY THE SELECT COMMITTEE

Preamble.—Whereas it is expedient to define, regulate and amend the law of marriage, maintenance, guardianship, inheritance and succession of the Makkathayam Thiyyas; It is hereby enacted as follows.—

CHAPTER I

1. *Short title and commencement.*—This Act may be called the Cochin Makkathayam Thiyya Act, of 111 , and it shall come into force at once.

2. *Application.*—It shall apply to all Thiyyas domiciled in Cochin except the Chittur Taluk who follow Makkathayam and to such Thiyyas, whether so domiciled or not, as have or shall have marital relations with them.

3. *Saving.*—Nothing in this Act shall confer any right on the parties to a marriage dissolved before this Act comes into force.

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